

REMARKS

The present application has claims 1-3, 5-7, 10, and 12-17 pending. Claims 12-15 have been withdrawn from consideration, but not yet canceled. No amendments have been made in the present response.

In the July 18, 2011 Office Action, the Examiner rejected the pending claims under 35 U.S.C. §103(a) as allegedly being obvious over Nanaumi, *et al.* (US Patent Publication 2003/0049518) in view of Brunk, *et al.* (US Patent No. 7,267,902).

Applicants respectfully disagree with the Examiner's position. The Examiner readily admits that the Nanaumi reference fails to teach all the limitations of claim 1. Specifically, the Examiner admits that the Nanumi reference fails to teach the limitation requiring that the edges of the first and second substrates and the portion of the front side of the ionically conductive membrane not supported by the first gas distributor substrate are surrounded by a sealing material — as set forth in claim 1 — or that the sealing material impregnates the edge regions of the first and second gas distributor substrates to a depth of at least 1 mm. See the July 18, 2011 Office Action, first full paragraph on pages 4.

To overcome this shortcoming of Nanaumi, the Examiner cites to Brunk. However, Brunk does not appear to be proper prior art against the subject application. Brunk was filed August 27, 2004 (almost a year after the filing date of the present application of October 30, 2003). Brunk does claim priority to a provisional application filed August 29, 2003 (Provisional application 60/498,818). But even if the provisional application of Brunk supports the Examiner's rejection, the present application has an earlier priority date of July 14, 2003 based on German application 103 31 836.4, filed July 14, 2003 (a certified English translation of this application is enclosed). Accordingly, the rejections based on Brunk should be withdrawn.

As noted, Nanaumi alone does not disclose embodiments where the edges of BOTH gas diffusion substrates are surrounded by the same sealing material – i.e., an organic polymer that adheres to the membrane. Likewise, the surface of the membrane unsupported by a gas diffusion substrate in Nanaumi is not surrounded by a sealing membrane, as required by the present claims. There is no complete surrounding seal in Nanaumi that covers both the edges of the gas diffusion substrates and the unsupported surface of the membrane.

Additionally, Nanaumi fails to disclose embodiments where the edge regions of the gas diffusion substrates are impregnated by a sealing material to a depth of at least 1 mm -- also a requirement of presently pending claim 1.

Accordingly, Nanaumi does not anticipate or render obvious the presently claimed invention as set forth in claim 1.

In light of the remarks above, Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) set forth in the July 18, 2011 Office Action and respectfully solicit allowance of the present application.

No fee is deemed necessary in connection with the filing of this amendment, other than the fee for the requested two-month extension of time, which has been charged to credit card. If any additional fees are due, or an overpayment has been made, please charge, or credit, our Deposit Account No. 50-5371 for such sum.

Applicant: Zuber, et al.
Serial No.: 10/699,158
Filing Date: October 30, 2003
December 16, 2011 Response to July 18, 2011 Office Action
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If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,


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